

APPEAL NO. 230950
FILED AUGUST 10, 2023

This appeal arises pursuant to the Texas Workers' Compensation Act, Tex. Lab. Code Ann. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 31, 2023, in (city), Texas, with (administrative law judge) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issues by deciding that: (1) the compensable injury of (date of injury), extends to post-traumatic stress disorder (PTSD), headaches, adjustment disorder, anxiety, right eye subdural hemorrhage, and cervical sprain, but does not extend to C2-3 stenosis, lumbar sprain, L5 radiculopathy, or bilateral peroneal neuropathy; (2) the appellant (claimant) reached maximum medical improvement (MMI) on June 15, 2021; and (3) the claimant's impairment rating (IR) is 12%. The claimant appealed that portion of the ALJ's extent-of-injury determination that was against her, as well as the MMI and IR determinations. The respondent (self-insured) responded, urging affirmance of the appealed determinations.

The ALJ's determination that the compensable injury of (date of injury), extends to PTSD, headaches, adjustment disorder, anxiety, right eye subdural hemorrhage, and cervical sprain was not appealed and has become final pursuant to Section 410.169.

DECISION

Reversed and remanded.

The parties stipulated, in part, that: (1) on (date of injury), the claimant sustained a compensable injury that extends to at least a concussion with loss of concentration, scalp contusion, facial abrasion, left ankle sprain, and left shoulder sprain; (2) the Texas Department of Insurance, Division of Workers' Compensation (Division) appointed (Dr. L) as designated doctor to determine extent of injury, MMI, and IR. The claimant, an employee engagement coordinator, was injured on (date of injury), when a car struck her and ran over her left foot as she was walking through the parking lot of the employer.

EXTENT OF INJURY

Section 410.168 provides that an ALJ's decision contain findings of fact and conclusions of law, a determination of whether benefits are due, and an award of benefits due. 28 Tex. Admin. Code § 142.16 (Rule 142.16) provides that an ALJ's decision shall be in writing and include findings of fact, conclusions of law, and a determination of whether benefits are due, and if so, an award of benefits due.

That portion of the ALJ's determination that the compensable injury of (date of injury), does not extend to C2-3 stenosis, lumbar sprain, L5 radiculopathy, or bilateral peroneal neuropathy is supported by sufficient evidence and is affirmed.

The Benefit Review Conference (BRC) Report in evidence indicates the following extent-of-injury issue in this case: Does the compensable injury of (date of injury), extend to and include PTSD and headaches, adjustment disorder, depression, anxiety, right eye subdural hemorrhage, cervical sprain, C2-3 stenosis, lumbar sprain, L5 radiculopathy, and bilateral peroneal neuropathy? The parties agreed on the record that the disputed extent-of-injury issue was as listed in the BRC report. The ALJ failed to make a finding of fact, conclusion of law, or decision regarding the certified disputed condition of depression. Because the ALJ's decision contains no findings of fact, conclusion of law, or decision regarding whether the compensable injury of (date of injury), extends to depression, which was an issue properly before the ALJ to resolve, it does not comply with Section 410.168 and Rule 142.16. Accordingly, we reverse the ALJ's decision as being incomplete and we remand that portion of the extent-of-injury issue to the ALJ as follows: Does the compensable injury of (date of injury), extend to depression? See Appeals Panel Decision (APD) 132339, decided December 12, 2013; APD 180839, decided June 4, 2018; and APD 201204, decided September 28, 2020.

MMI AND IR

As we have remanded the issue whether the compensable injury of (date of injury), extends to depression, we must also reverse the ALJ's determinations that the claimant reached MMI on June 15, 2021, and the claimant's IR is 12% and remand the issues of MMI and IR to the ALJ for further action consistent with this decision.

Pursuant to Section 410.203(c), the Appeals Panel may not remand a case more than once. Given that we are remanding this case for the ALJ to make determinations on whether the compensable injury extends to depression, MMI, and IR, we note that the parties stipulated that the compensable injury extends to at least a concussion with loss of concentration, among other conditions. However, in the adopted certification from Dr. L, he considers and rates a concussion without loss of consciousness instead of a concussion with loss of concentration.

SUMMARY

We reverse the ALJ's extent-of-injury determination as being incomplete and we remand that portion of the extent-of-injury issue to the ALJ as follows: Does the compensable injury of (date of injury), extend to depression?

We reverse the ALJ's determinations that the claimant reached MMI on June 15, 2021, and the claimant's IR is 12% and remand the issues of MMI and IR to the ALJ for further action consistent with this decision.

REMAND INSTRUCTIONS

On remand, the ALJ is to make a finding of fact, conclusion of law, and a decision regarding whether the compensable injury of (date of injury), extends to depression. The ALJ is then to make a finding of fact, conclusion of law, and a decision regarding the issues of MMI and IR that is supported by the evidence and consistent with this decision.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the ALJ, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Division, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See APD 060721, decided June 12, 2006.

The true corporate name of the insurance carrier is **(a self-insured governmental entity c/o TEXAS COUNCIL RISK MANAGEMENT)** and the name and address of its registered agent for service of process is

(NAME)
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

Cristina Beceiro
Appeals Judge

CONCUR:

Carisa Space-Beam
Appeals Judge

Margaret L. Turner
Appeals Judge